



September 10, 2024

Via electronic submittal

Chair Liane Randolph and
Members of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814
cotb@arb.ca.gov

Re: OPPOSE UNLESS AMENDED - Proposed Changes to the Low Carbon Fuel Standard Regulation (15-Day Change Proposal)

Dear Chair Randolph and Members of the Board,

For the past three years, the undersigned public interest organizations have advocated to reform the Low Carbon Fuel Standard (LCFS) so that it propels California's progress in the fight against the climate and air pollution crises while delivering economic and environmental justice.

Unfortunately, California Air Resources Board (CARB) Staff's 15-Day Change Proposal fails to address our grave concerns about the LCFS's lopsided support for combustion fuels that are harming California communities, threatening sensitive ecosystems, exacerbating global hunger, and worsening our climate crisis. Rather than restricting bogus credits, the proposal focuses entirely on increasing credit demand. If key changes are not made, the LCFS would remain a regressive, outdated, and combustion-focused program, prioritizing the demands of powerful fossil fuel and agribusiness industries over public health and environmental integrity.

There is still time to fix these problems and align the LCFS with environmental justice and climate integrity. **We urge you to vote NO on November 8th unless the following deficiencies are addressed:**

- **Failure to eliminate distortionary avoided methane crediting.** Despite repeated and vehement concern from public health, environmental justice, environmental organizations, academic experts—and above all, low-income Californians of color—the 15-Day Change Proposal fails to end the LCFS's exceptional treatment of livestock methane pollution as a lucrative offset. Nothing about livestock methane's chemistry makes it better than landfill or wastewater methane at fighting climate change. These inflated credits are premised entirely on CARB's refusal to use its clear authority to regulate livestock methane like any other major pollution source. The 15-day Change Proposal not only maintains this treatment, it further extends the lavish subsidies relative to the timeline proposed in the September 2023 Standardized Regulatory Impact Assessment (SRIA). This extension runs counter to the direction provided by several Board Members in September, who expressed concern about the value and longevity of avoided methane crediting proposed in the more conservative SRIA.

In subsequent 15-day changes, CARB should eliminate avoided methane crediting for all new pathway applications and align accounting with landfill/wastewater methane.

- **Crediting for fossil fuel-based hydrogen through the book-and-claim of unbundled biomethane.** Staff's stated restriction on credits for fossil fuel-derived hydrogen is misleading. The restriction still allows fossil-gas derived hydrogen to generate lavish credits so long as producers purchase unbundled environmental biomethane attributes. This bogus credit generation increases revenue for dirty hydrogen producers and factory farms near California's most pollution-burdened communities and undercuts the incentive to invest in genuinely green hydrogen production.

In subsequent 15-day changes, CARB should eliminate this loophole for fossil hydrogen and end avoided methane crediting.

- **Failure to impose adequate limits on volumes of crop biofuels is driving deforestation and global hunger.** CARB’s own modeling in the 15-day Change Proposal projects volumes of renewable diesel will be 50% higher than those projected in Staff’s Initial Statement of Reasons (ISOR). These higher projections come despite the addition of the newly proposed 20% -per-producer limit and the additional authority to consider future adjustments to land use change values. Accordingly, by CARB’s own data, the newly proposed measures—while well-intentioned—will not prevent or even mitigate the LCFS’s role in driving deforestation and rising global food prices. Moreover, increased production volumes of renewable diesel will extend the pollution burden of refining in fence-line refinery communities across California.

In subsequent 15-day changes, CARB should impose a volume limit on lipid biofuels. At a minimum, CARB should strengthen the current proposal to cover *all* lipid biofuel feedstocks, and treat all overages as ultra-low sulfur diesel.

- **Abandonment of the provision to include fossil jet fuel as a deficit generator.** Airport workers were assured in the rulemaking process that CARB would attempt to leverage the LCFS to tackle pollution from jet fuel. But by excluding fossil jet fuel from generating deficits, there is little incentive for airlines to invest in cleaner fuels, or support higher credit prices that accelerate zero-emissions investments in cargo handling or airport ground support equipment. CARB’s backsliding on this key reform reduces the effectiveness of the LCFS and stalls progress on the challenge of reducing pollution from jet fuel, all while absolving the profitable airline industry—a transportation segment catering primarily to more affluent consumers—of paying its fair share.

In subsequent 15-day changes, CARB should ensure all major polluters are covered under the LCFS and restore intra-state fossil jet fuel as a deficit generator.

- **Diversion of credits from utilities to original equipment manufacturers (OEMs).** In a step backwards, the 15-Day Change Proposal reallocates up to 45% of credits from utilities that are beholden to laws and standards in service of the public interest to subsidize OEMs. The proposed changes do not include any parameters or guardrails to address the inequitable distribution of zero-emission vehicles (ZEVs) in California, nor any requirements that deployments be “additional” to existing requirements. Such alterations may perversely incentivize OEMs to miss regulatory targets, while siphoning much-needed investments away from medium- and heavy-duty electrification that would have been surplus of required deployments. Siphoning funds from accelerating medium- and heavy-duty electrification towards mere compliance for light-duty electrification will

reduce desperately needed air quality benefits for freight communities while perpetuating historic barriers to electric vehicle access for low-income communities of color.

In subsequent 15-day changes, CARB should limit ZEV subsidies to low-income communities and prioritize electrification funding for medium- and heavy-duty vehicles and grid upgrades that lower air pollution and ratepayer costs.

CARB must address these fundamental problems with the 15-Day Change Proposal to make the LCFS more equitable, less reliant on outdated combustion fuels, and to align the program with CARB's own air quality standards and ZEV goals. The above changes are also necessary to ensure the program reflects the best available climate science and centers the voices of the communities and workers at the frontlines of the energy transition.

We urge Board Members to direct Staff to make these critical changes to the LCFS and to **vote NO** on the proposed amendments unless these changes are incorporated into the final proposed rule. We look forward to working with you to craft a stronger, more equitable LCFS.

Sincerely,

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Litigation Committee Member
Climate Reality, Monterey Chapter

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Policy Advocate
Central California Asthma Collaborative

Organizational Comments on Modifications (15-Day Changes) to the LCFS Program

For more detailed analysis of the 15-Day Changes, please see the following comments:

California Environmental Voters	<u>COMMENT</u>
Communities for a Better Environment	<u>COMMENT</u>
Earthjustice	<u>COMMENT</u>
Leadership Counsel for Justice and Accountability	<u>COMMENT</u>
Pacific Environment	<u>COMMENT</u>
SEIU USWW	<u>COMMENT</u>
Center for Biological Diversity	<u>COMMENT</u>